

House File 100 - Introduced

HOUSE FILE 100

BY WATTS

A BILL FOR

1 An Act prohibiting the automatic renewal of service contracts,
2 and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 555.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Automatic renewal provision*" means a provision pursuant
5 to which a service contract is renewed for a specified period,
6 whereby the renewal causes the service contract to be in effect
7 more than six months after the date the service contract was
8 initiated, and the renewal is effective unless the consumer
9 gives notice to the service provider of the consumer's
10 intention to terminate the service contract.

11 2. "*Consumer*" means a person receiving service, maintenance,
12 or repair under a service contract.

13 3. "*Service contract*" means a contract for the provision
14 of service, maintenance, or repair with regard to goods or
15 services purchased, acquired, or utilized primarily for a
16 personal, family, or household purpose, in which payments are
17 automatically billed by the service provider and payable by
18 the consumer on a monthly or other regularly scheduled basis.
19 "*Service contract*" does not include a contract affecting any
20 right, title, estate, or interest in real property, nor the
21 purchase of goods or services under circumstances which would
22 constitute a consumer credit transaction as defined in section
23 537.1301. A door-to-door sale pursuant to section 555A.1 may
24 constitute a service contract subject to this chapter provided
25 the requirements of this chapter are otherwise met.

26 4. "*Service provider*" means a person providing service,
27 maintenance, or repair under a service contract.

28 Sec. 2. NEW SECTION. 555.2 Service contracts — automatic
29 renewal — prohibition.

30 1. A service contract shall not contain an automatic renewal
31 provision. Prior to renewal of a service contract, the service
32 provider shall provide a consumer written notice complying with
33 the requirements of subsection 2 that informs the consumer
34 that the contract shall terminate on a date specified in the
35 contract, and that renewal is conditioned upon receipt from the

1 consumer of acceptance of contract renewal.

2 2. Notice provided pursuant to subsection 1 shall be in
3 writing in clear and understandable language printed in an
4 easy-to-read type size and style, and shall be delivered by
5 regular mail, or prominently displayed on the first page
6 of a monthly statement, and supplied at least thirty days
7 prior to the termination date specified in the contract. The
8 notice shall also provide clearly understandable instructions
9 for notification by the consumer to the service provider of
10 acceptance of contract renewal.

11 3. A service provider shall not be held liable for
12 cancellation of a service contract if no notification of
13 acceptance was received from a consumer. Upon satisfactory
14 evidence submitted by a consumer that such notification was
15 sent, but not received, a service provider shall renew a
16 contract under the same terms and conditions as if notification
17 had been received in a timely manner.

18 Sec. 3. NEW SECTION. 555.3 Penalties.

19 1. A service provider who violates the provisions of this
20 chapter is guilty of a simple misdemeanor.

21 2. A violation of this chapter is a violation of section
22 714.16, subsection 2, paragraph "a".

23 EXPLANATION

24 This bill prohibits the automatic renewal of service
25 contracts under specified circumstances.

26 The bill provides that an "automatic renewal provision"
27 means a provision under which a service contract is renewed
28 for a specified period, causing the contract to be in effect
29 more than six months after the date it was initiated, and
30 effective unless a consumer gives notice to the service
31 provider of the consumer's intention to terminate the contract.
32 The bill defines a "consumer" as a person receiving service,
33 maintenance, or repair under a service contract, and a "service
34 provider" as a person providing such service, maintenance, or
35 repair. A "service contract" is defined as a contract for the

1 provision of service, maintenance, or repair with regard to
2 goods or services purchased, acquired, or utilized primarily
3 for a personal, family, or household purpose, in which payments
4 are automatically billed by the service provider and payable
5 by the consumer on a monthly or other regularly scheduled
6 basis. The bill excludes contracts affecting any right, title,
7 estate, or interest in real property, and contracts for the
8 purchase of goods or services under circumstances which would
9 constitute a consumer credit transaction as defined in Code
10 section 537.1301 from the definition, but includes door-to-door
11 sales pursuant to Code section 555A.1 which otherwise meet the
12 bill's requirements.

13 The bill states that a service contract may not contain
14 an automatic renewal provision, and that prior to renewal
15 the service provider shall provide a consumer written notice
16 informing the consumer that the contract shall terminate on a
17 date specified in the contract, and that renewal is conditioned
18 upon receipt from the consumer of acceptance of contract
19 renewal. The bill provides that the notice shall be in writing
20 in clear and understandable language printed in an easy-to-read
21 type size and style, and either delivered by regular mail or
22 prominently displayed on the first page of a monthly statement
23 at least 30 days prior to the termination date specified in
24 the contract. The bill provides that the notice shall also
25 provide clearly understandable instructions for notification by
26 the consumer to the service provider of acceptance of contract
27 renewal. The bill holds a service provider not liable for
28 cancelling a service contract if no notification of acceptance
29 was received, but states that the provider shall be required to
30 reinstate the contract upon submission of satisfactory evidence
31 by a consumer that acceptance was in fact sent.

32 The bill provides that a violation of the bill's provisions
33 constitutes a simple misdemeanor punishable by confinement for
34 no more than 30 days or a fine of at least \$65 but not more
35 than \$625 or by both. A violation shall also be considered

1 a consumer fraud under Code section 714.16, subsection 2,
2 paragraph "a", punishable by a civil penalty of up to \$40,000
3 per violation and a civil penalty up to \$5,000 for each day
4 of intentional violation of a temporary restraining order,
5 preliminary injunction, or permanent injunction pursuant to
6 Code section 714.16.